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NORTHERN DISTRICT OF CALIFORNIA

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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEVIN V. RYAN (CASBN 118321)  
United States Attorney

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
RELIANT ENERGY SERVICES, INC.,  
JACKIE R. THOMAS,  
V. REGINALD HOWARD II,  
LISA L. FLOWERS, and  
J. KEVIN FRANKENY,  
Defendants.

No. CR 04-0125 VRW

STIPULATION AND ~~PROPOSED~~  
ORDER SETTING HEARING DATE AND  
EXCLUDING TIME

On July 5, 2006, the Court of Appeals for the Ninth Circuit issued a memorandum order remanding this matter for further proceedings regarding the issue of the admissibility of the Market Monitoring and Information Protocol ("MMIP"). On July 13, 2006, the United States filed a memorandum setting forth its position on the issues framed by the Ninth Circuit's order. The parties anticipate that, by operation of the Ninth Circuit's rules, the mandate in this matter will issue on or about July 26, 2006. See Ninth Circuit Rule 41-2.

The parties have met and conferred regarding a date for a status hearing and for argument

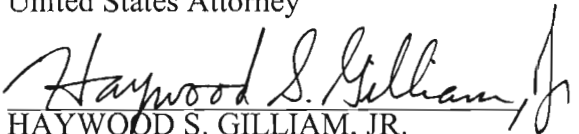
STIPULATION AND [PROPOSED] ORDER  
CR 04-0125 VRW

1 on the MMIP issues remanded by the Ninth Circuit. The earliest Tuesday counsel for all parties  
 2 can be available for such a hearing is August 22, 2006. The parties therefore jointly request that  
 3 the matter be set on calendar on that date at 10:30 a.m. for a hearing on those matters. The  
 4 parties are reviewing their respective trial calendars and suggest that a trial date be discussed at  
 5 the status conference on August 22.

6 In addition, the parties stipulate and agree that exclusion of time between July 26, 2006  
 7 and August 22, 2006 is appropriate under the Speedy Trial Act, Title 18, United States Code,  
 8 Sections 3161(h)(8)(A) and (h)(B)(ii) and (iv), based on the continuing complexity of this matter  
 9 and the need to avoid unreasonably denying each defendant continuity of counsel. The parties  
 10 agree that the ends of justice served by granting the requested continuance outweigh the best  
 11 interest of the public and the defendant in a speedy trial.

12  
 13 Dated: July 20, 2006

KEVIN V. RYAN  
 United States Attorney



HAYWOOD S. GILLIAM, JR.  
 KESLIE STEWART  
 MICHAEL LI-MING WANG  
 BLAKE D. STAMM  
 Assistant United States Attorneys

14  
 15  
 16  
 17  
 18  
 19 Dated:

WILLIAM M. GOODMAN  
 Attorney for Defendant Reliant Energy Services

20  
 21 Dated:

WILLIAM H. JEFFRESS, JR.  
 Attorney for Defendant Reliant Energy Services

22  
 23 Dated:

GEORGE COTSIRILOS  
 Attorney for Defendant Jackie Thomas

24  
 25  
 26 Dated:

MARY McNAMARA  
 Attorney for Defendant V. Reginald Howard II

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on the MMIP issues remanded by the Ninth Circuit. The earliest Tuesday counsel for all parties can be available for such a hearing is August 22, 2006. The parties therefore jointly request that the matter be set on calendar on that date at 10:30 a.m. for a hearing on those matters. The parties are reviewing their respective trial calendars and suggest that a trial date be discussed at the status conference on August 22.

In addition, the parties stipulate and agree that exclusion of time between July 26, 2006 and August 22, 2006 is appropriate under the Speedy Trial Act, Title 18, United States Code, sections 3161(h)(8)(A) and (h)(B)(ii) and (iv), based on the continuing complexity of this matter and the need to avoid unreasonably denying each defendant continuity of counsel. The parties agree that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial.

Dated: July 20, 2006


KEVIN V. RYAN  
United States Attorney

HAYWOOD S. GILLIAM, JR.  
KESLIE STEWART  
MICHAEL LI-MING WANG  
BLAKE D. STAMM  
Assistant United States Attorneys

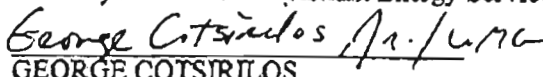
Dated: 7/21/06

  
WILLIAM M. GOODMAN  
Attorney for Defendant Reliant Energy Services

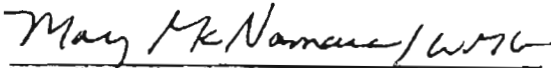
Dated: 7/21/06

  
WILLIAM H. JEFFRESS, JR.  
Attorney for Defendant Reliant Energy Services

Dated: 7/21/06

  
GEORGE COTSIRILOS  
Attorney for Defendant Jackie Thomas

Dated: 7/21/06

  
MARY McNAMARA  
Attorney for Defendant V. Reginald Howard II

STIPULATION AND [PROPOSED] ORDER  
JR 04-0125 VRW

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P.04

Dated:

7/26/06

*Nancy Clarence / WFL*  
 NANCY CLARENCE  
 Attorney for Defendant Lisa L. Flowers

Dated:

7/26/06

*John L. Williams / WFL*  
 JOHN L. WILLIAMS  
 Attorney for Defendant J. Kevin Frankeny

**ORDER**

For the foregoing reasons, and good cause appearing, the Court HEREBY ORDERS this matter set over to August 22, 2006 for a status conference and hearing regarding the issues identified in the Ninth Circuit's July 5, 2006 memorandum order. The Court further ORDERS the period between July 26, 2006 and August 22, 2006 excluded from the speedy trial calculation under Title 18, United States Code, Sections 3161(h)(8)(A) and (h)(B)(ii) and (iv). The Court finds exclusion appropriate based on the continuing complexity of this matter and the need to avoid unreasonably denying each defendant continuity of counsel. The Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases.

IT IS SO ORDERED.

DATED:

24 JUL 2006

*Vaughn R. Walker*  
 HONORABLE VAUGHN R. WALKER  
 United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

**STIPULATION AND [PROPOSED] ORDER SETTING HEARING  
DATE AND EXCLUDING TIME**

in the case of **UNITED STATES V. RELIANT ENERGY SERVICES, ET AL.,**

**CR-04-0125-VRW** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

William M. Goodman, Esq.  
Topel & Goodman  
832 Sansome Street, Fourth Floor  
San Francisco, CA 94111  
Telephone: (415) 421-6140  
Facsimile: (415) 398-5030

☐ (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

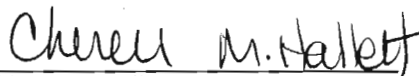
☒ (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

☒ (By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

☐ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 21, 2006

  
Cherell M. Hallett  
United States Attorney's Office